

NATHAN PHILLIPS

MARCH 20, 1956.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the
following

R E P O R T

[To accompany H. R. 1096]

The Committee on the Judiciary, to whom was referred the bill (H. R. 1096) for the relief of Nathan Phillips having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay Nathan Phillips of 111 Tyler Street, Rochester, N. Y., the sum of \$500 in full settlement of all claims against the United States as reimbursement for an immigration bond posted for Fuel Pitruszynski in 1950.

STATEMENT

Fuel Pitruszynski, the brother of Mr. Nathan Phillips, was admitted to the United States on February 27, 1948, as a visitor for pleasure until August 26, 1948. A bond was furnished in the amount of \$500 which was conditioned upon Fuel Pitruszynski's departure from the United States on or before August 26, 1948, without expense to the United States. He was granted an extension of stay for 2½ months which extended the time for his departure to November 10, 1948. Prior to the expiration of this period, Fuel Pitruszynski applied for relief under section 4 of the Displaced Persons Act of 1948. He was not required to apply for an extension of stay pending consideration and final decision on his application for relief as a displaced person, and he was considered as having been granted a stay for the period required for the processing of his application. That application was denied on March 24, 1950.

A private bill was introduced in his behalf in the 81st Congress which would have granted him permanent residence in the United

States. However this bill was not enacted. After this bill was introduced, he was served with a warrant of arrest based on the fact that he had not departed in accordance with the terms of his admittance as a visitor. In connection with the proceedings initiated by that warrant of arrest Mr. Pitruszynski submitted an affidavit in which he stated that if his private bill did not pass he would execute a form I-255, and agree to depart voluntarily from the United States. When his private bill did not pass during the 81st Congress he complied with these statements, and executed the form, and left the country without any expense to the Government. However the Government held that the bond had been breached and forfeited the bond.

The committee has carefully considered the facts of this particular case, and has determined that Mr. Pitruszynski while seeking to remain in this country made every attempt to comply with applicable regulations relating to his stay in the United States. The failure of the Congress to take action on the private relief bill introduced in his behalf was the final step, and he left the country at his own expense after the end of that Congress. Mr. Phillips is severely penalized by the loss occasioned by this forfeiture. The committee is of the firm opinion that under the facts of this case relief should be accorded Mr. Phillips, and therefore recommends that the bill be favorably considered.

It has been clearly demonstrated to the committee that an attorney has rendered substantial services in connection with this claim, and therefore the bill carries the customary attorney's fee proviso.

SEPTEMBER 3, 1953.

HON. CHAUNCEY W. REED,

*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H. R. 4960) for the relief of Nathan Phillips.

The bill would provide for payment of the sum of \$500 to Nathan Phillips, Rochester, N. Y., in full settlement of all claims against the United States as reimbursement for bond posted for Fuel Pitruszynski in 1950.

From the information contained in the files of the Immigration and Naturalization Service of the Department of Justice, it appears that Rafael Pietruszynski, also known as Fuel Pitruszynski, was admitted to the United States on February 27, 1948, as a visitor for pleasure until August 26, 1948, upon the furnishing of a bond in the amount of \$500, which bond contained a condition that the alien would "actually depart permanently from the United States, without expense to the United States, on or before August 26, 1948." Subsequently, the alien was granted an extension of stay for 2½ months and was advised that his departure on or before November 10, 1948, would be satisfactory provided that the consent of the surety was obtained. The surety, the Phoenix Indemnity Co., consented to the extension and stated that such extension would not serve as a release of liability on the bond.

Before the expiration of his authorized stay, the alien applied for relief under section 4 of the Displaced Persons Act of 1948. It was not the policy to require an alien to apply for an extension of stay

pending consideration and final decision on an application for relief as a displaced person. Instead the alien was considered as having been granted a stay for so long a period as was required to dispose of the application. See OI 171 I, November 24, 1948. The bonding company was notified that the alien would be permitted to remain in the United States pending the outcome of his application.

On March 24, 1950, the alien's application was denied. Instead of departing from the United States, he procured the introduction of a private bill in the 81st Congress which proposed to grant him permanent residence in the United States. The bill was not enacted.

A warrant of arrest in deportation proceedings was served on him on September 13, 1950, and, after a hearing, he was granted the privilege of departing voluntarily from the United States at his own expense. He departed on February 23, 1951.

On June 26, 1951, the Immigration and Naturalization Service declared the bond breached because the alien had failed to leave the United States after his application under the Displaced Persons Act was denied. Demand was made on the bonding company for payment of the bond and payment was received on August 2, 1951. The records do not show what collateral, if any, was posted with the bonding company or whether Nathan Phillips, brother of the alien, sustained any loss as a result of the transaction.

As noted above, the alien was granted several extensions of time within which to depart from the United States without effecting a breach of the departure bond. Under the last extension available to him the alien was required to depart within a reasonable time after March 24, 1950, the date on which his application for relief under the Displaced Persons Act of 1948 was denied. He did not depart as required but remained in the United States until February 23, 1951, at which time he departed. The bond, therefore, properly was declared breached.

The record in this case discloses no facts which would warrant a waiver by the United States of its rights under the bond. Accordingly, the Department of Justice is opposed to the enactment of the bill.

The Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

ROCHESTER 14, N. Y., *April 13, 1953.*

Re Fuel Pitruszynski.

HON. KENNETH B. KEATING,
*Representative 38th New York District,
House of Representatives, Washington, D. C.*

DEAR KEN: Mr. Nathan Phillips of No. 111 Tyler Street, Rochester, N. Y., informs me that he spoke to you regarding the possibility of his recovering \$500 which the Immigration and Naturalization Service forfeited because of the failure of the above-named to leave the country after his application for adjustment of immigration status under section 4 of the Displaced Persons Act of 1944 was denied.

Under date of August 23, 1950, a warrant of arrest was served on the alien "In that after admission as a visitor he has remained in the

United States for a longer time than permitted under said act or regulations made thereunder." Prior to that time, under date of July 27, 1950, a bill was introduced by Senator Lehman, being S. 3984 of the 2d session of the 81st Congress.

In connection with the hearings which were held under the warrant of arrest, the alien submitted an affidavit to the Immigration and Naturalization Service, a copy of which is enclosed herewith. He indicated in that affidavit that if Congress adjourned without taking action on the special bill he would immediately execute form I-255, Application for Departure in lieu of Deportation. The bill was not acted upon. The alien executed form I-255 and left the country voluntarily without any expense to the Government.

Much to Mr. Phillips' chagrin, the Immigration and Naturalization Service forfeited the \$500 bond which he had put up for his brother, the alien, making a mockery, of course, of the understanding between Congress and the Immigration and Naturalization Service that while a bill for the relief of an alien was pending in Congress the alien would not be deported.

Mr. Phillips is a man of very modest means and this loss was a severe blow to him. This certainly seems to be the type of situation where a special bill for his relief is warranted.

Since I was not acting in this case except near the end of it, I may not have given you all of the facts you need. However, if there are any further facts you need please write me and I shall procure them from the attorney who represented him originally.

Best regards.

Sincerely,

GOODMAN A. SARACHAN.

P. S.—I note from the papers in my file that the \$500 was deposited at the time the alien originally was admitted under the Immigration Act of 1944 as a visitor "for business or for pleasure which was approved at New York, N. Y., February 26, 1948."

STATE OF NEW YORK
County of Monroe,
City of Rochester, ss:

Fuel Pitruszynski, being duly sworn, deposes and says that he resides at No. 111 Tyler Street, Rochester, N. Y., and is making this affidavit in connection with the immigration proceedings now pending against him.

Deponent says that neither he nor his spouse was ever married before. That upon his being admitted into the United States, deponent was given a document which he believes was an alien registration receipt card, but that such document was taken from deponent by an immigration inspector of the Immigration and Naturalization Service in the course of a hearing at Rochester, N. Y. That deponent does not have a selective service card.

Deponent further says that he is submitting herewith receipt showing that deponent through his brother, Nathan Phillips, sent the sum of \$150 to his wife, Madame S. Pitruszynski at 5 Avenue Jain Jaruse, Paris 19, France; that after April 1948, deponent's wife informed him that she would prefer that he purchase food and clothing for her and his children in this country and ship packages to her and that since that time, deponent has regularly sent to his said wife to help

maintain, and support his said wife and children in Paris, France, packages of approximately the value of \$60 per month.

Deponent further says that he is not executing form I-255 at this time because there is pending in the Senate of the United States a bill for the relief of Fuel Pitruszynski, being Senate 3984 of the 81st Congress, 2d session.

Deponent further says that in the event that the present session of Congress adjourns without taking favorable action upon the said bill, deponent will desire to execute said Form I-255: Application for Departure in Lieu of Deportation.

FUEL PITRUSZYNSKI.

Sworn to before me this 19th day of October 1950.

GOODMAN A. SARACHAN,
Notary Public.

Commission expires March 30, 1952.

HOUSE OF REPRESENTATIVES,
Washington, D. C., March 6, 1956.

Hon. THOMAS J. LANE,
*Chairman, Subcommittee on Claims,
House Office Building, Washington, D. C.*

DEAR TOM: With reference to my bill, H. R. 1096, for the relief of Nathan Phillips, now pending before your subcommittee, Mr. Shattuck has requested information as to whether or not Mr. Phillips had engaged an attorney in connection with his claim.

In checking on this matter, I understand that an attorney has rendered services regarding this claim and is, therefore, entitled to a fee.

Very sincerely yours,

KENNETH B. KEATING.

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